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**Audit**

**Report**



OFFICE OF THE INSPECTOR GENERAL

QUICK REACTION REPORT ON THE REVIEW OF THE  
AWARD OF CONTRACT DAAA21-91-D-0011 AND PLANNED  
SUBSEQUENT AWARD

Report Number 93-031

December 11, 1992

DISTRIBUTION STATEMENT A

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Department of Defense

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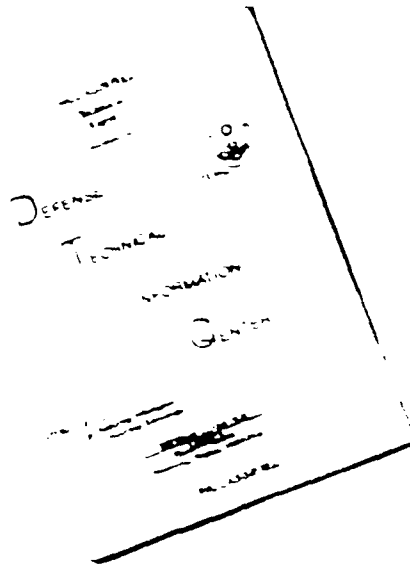
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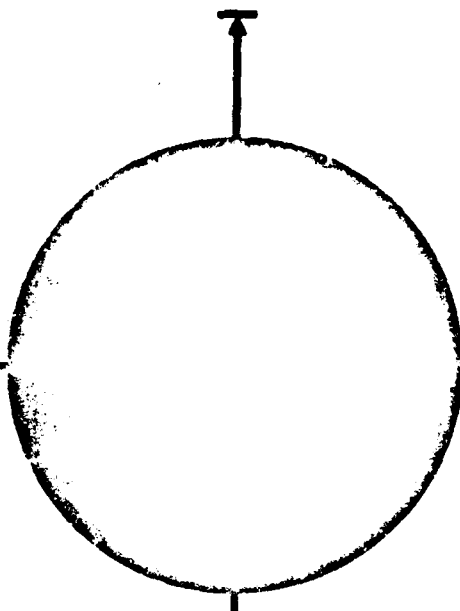
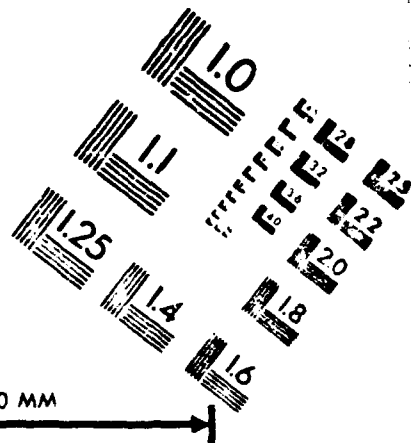
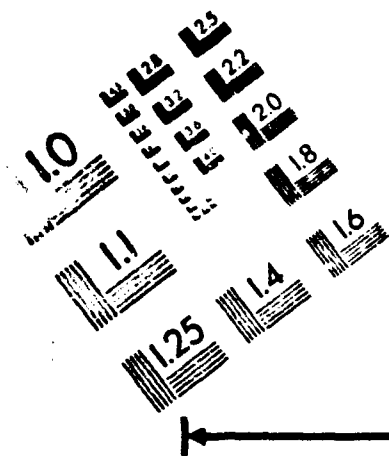
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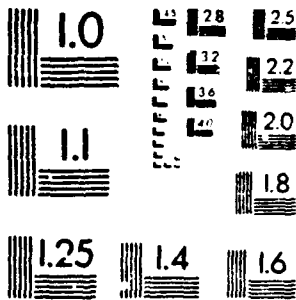
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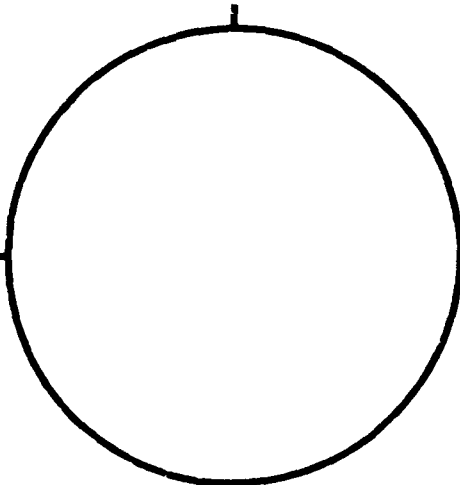
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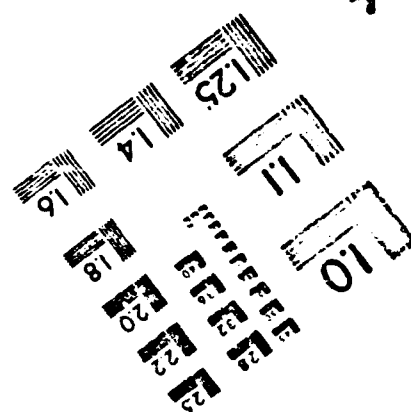
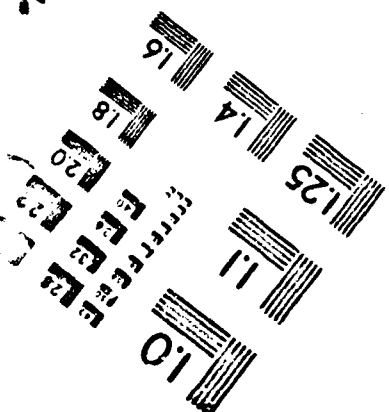
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The following acronyms are used in this report:

ARDEC.....Armament Research, Development, and Engineering  
Center, Army  
AMC.....Army Materiel Command  
AMCCOM.....Armament, Munitions and Chemical Command, U.S. Army  
CICA.....Competition in Contracting Act of 1984  
DASD(E).....Deputy Assistant Secretary of Defense (Environment)  
FAR.....Federal Acquisition Regulation  
J&A.....Justification and Approval for Other Than Full and Open  
Competition  
UCA.....Unfinitized Contractual Action  
The Center...National Defense Center for Environmental Excellence



INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-2884



December 11, 1992

MEMORANDUM FOR INSPECTOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: Quick Reaction Report on the Review of the Award of  
Contract DAAA21-91-D-0011 and Planned Subsequent Award  
(Report No. 93-031)

We are providing this final report for your information and use. This report resulted from our audit of a Hotline allegation that the Army Materiel Command was not following required competitive procedures on the award and planned expansion of contract DAAA21-91-D-0011 for the National Defense Center for Environmental Excellence.

Comments received on a draft of this report conformed to the requirements of DoD Directive 7650.3 and there are no unresolved issues. Therefore, no additional comments are required.

The courtesies and cooperation extended to the audit staff are appreciated. If you have any questions on this audit, please contact Mr. Wayne K. Million, Program Director, at (703) 692-2991 (DSN 222-2991) or Ms. Judith Karas, Project Manager, at (703) 692-2994 (DSN 222-2994). The planned distribution of this report is listed in Appendix D.

Robert J. Lieberman  
Assistant Inspector General  
for Auditing

cc:  
Secretary of the Army  
Under Secretary of Defense for Acquisition  
Director, Defense Research and Engineering  
Director of Defense Procurement  
Deputy Assistant Secretary of Defense (Environment)  
Commander, Army Materiel Command

Office of the Inspector General, DoD

AUDIT REPORT NO. 93-031  
(Project No. 2CG-8011)

December 11, 1992

QUICK REACTION REPORT ON THE REVIEW OF THE AWARD OF  
CONTRACT DAAA21-91-D-0011 AND PLANNED SUBSEQUENT AWARD

EXECUTIVE SUMMARY

**Introduction.** In May 1990, Congress appropriated \$5 million for DoD to exclusively create a National Defense Center for Environmental Excellence. The goal of the National Defense Center for Environmental Excellence would be to structure a 5-year program to address the DoD environmental technological requirements. We performed the audit in response to a Hotline allegation that the Army Materiel Command was not following required competitive procedures on the award and planned expansion of contract DAAA21-91-D-0011 for the National Defense Center for Environmental Excellence.

**Objectives.** The audit objectives were to evaluate the contract award procedures and examine the planned follow-on contract for this project.

**Audit Results.** Appropriate contracting procedures were followed for contract DAAA21-91-D-0011 except that the contract was awarded noncompetitively based on an erroneous justification and approval. The Army was also pursuing a noncompetitive award of \$250 million for a follow-on contract to the University of Pittsburgh Trust at Johnstown, Pennsylvania. As a result of subsequent direction in Public Law in September and October 1992, the Army was justified in continuing the noncompetitive award of the contract.

**Internal Controls.** The audit did not identify material internal control weaknesses in the review and approval procedures used in contracting for the National Defense Center for Environmental Excellence. Details of our review of internal controls are in Part I, page 2 of this report.

**Potential Benefits of Audit.** Implementation of the recommendation will result in compliance with the Competition in Contracting Act of 1984 and congressional direction. Also, the internal control procedures for approving noncompetitive awards will be improved (Appendix B).

**Summary of Recommendations.** We recommended that the Army compete the follow-on contract for the National Defense Center for Environmental Excellence unless Congress waived the Competition in Contracting Act for that purpose.

**Management Comments.** The Deputy Assistant Secretary of the Army (Procurement) concurred with the recommendation and stated that Congress, in the Department of Defense Supplemental Appropriations Act for FY 1992 and the Appropriations Act for FY 1993, directed the Army to continue the National Defense Center for Environmental Excellence with the current contractor. In addition, the Army was notifying their contracting and legal offices that Congressional conference report language cannot be cited as law. Therefore, due to congressional actions, the recommendation has been overtaken by events and no additional comments are required. Management comments are summarized in Part I of this report, and the complete text of management comments is in Part III.



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This report was prepared by the Contract Management Directorate,  
Office of the Assistant Inspector General for Auditing, DoD.  
Copies of the report can be obtained from the Secondary Reports  
Distribution Unit, Audit Planning and Technical Support  
Directorate, (703) 614-6303 (DSN 224-6303).

## PART I - RESULTS OF AUDIT

### Introduction

This audit is in response to a DoD hotline complaint alleging that contract DAAA21-91-D-0011 for the National Defense Center for Environmental Excellence (the Center) was improperly awarded noncompetitively. We found that the contract was awarded noncompetitively and that a follow-on contract with a \$250 million ceiling was also planned as a noncompetitive action. The noncompetitive award was contrary to the Competition in Contracting Act of 1984 (CICA) and United States Code, title 10, sections 2301 and 2304, which require full and open competition for awards of this type. The original award was made based on an erroneous justification that the noncompetitive award was required by Statute.

The planned \$250 million follow-on contract, to be awarded before the end of calendar year 1992, was also planned using an acquisition strategy that did not include full and open competition.

The audit objectives were to evaluate the contract award procedures used and to determine whether Federal and DoD Acquisition regulations were followed in contracting actions for the Center. We also evaluated the internal controls applicable to the contracting process for the Center.

### Background

In May 1990, the Appropriations Committee Conferees directed DoD to use \$5 million to develop a National Defense Center for Environmental Excellence. The Conference Committee Report described the Center's purpose and mission, which was to plan and structure a 5-year program to address DoD environmental technological requirements. The Congress appropriated \$5 million in FY 1990 supplemental funds for this purpose and has provided additional funds in subsequent years. Appendix A lists, in chronological order, the events leading to the creation of the Center and the award of the contract to the National Defense Environmental Corporation.

### Scope

Available data. We reviewed justification and contracting documents, decision and information memoranda, congressional reports, and public law; which covered the period May 1989 to July 1992, pertinent to contract DAAA21-91-D-0011 for the initiation of the Center and for the proposed follow-on contract. We did not rely on any computerized data to accomplish this audit.

Audit assistance. The Office of General Counsel, Assistant General Counsel (Fiscal and Inspector General), provided legal guidance and interpretation for this audit.

Audit period, locations, and standards. This economy and efficiency audit was performed in accordance with auditing standards issued by the Comptroller General of the United States as implemented by the Inspector General, DoD, from May through July 1992. Accordingly, we included such tests of internal controls as were considered necessary. Appendix C lists the activities visited or contacted.

#### Internal Controls

The audit disclosed no material internal control weaknesses as defined by Public Law 97-255, Office of Management and Budget Circular No. A-123, and DoD Directive 5010.38. We assessed the controls established over the procurement process the Army used in awarding the contract for the Center. We concluded that the Army had adequate controls over the procurement process.

#### Discussion

Justification for noncompetitive award. The OSD and Army officials used guidance in Report 101-4931<sup>1/</sup> as justification for creating the Center. The guidance stated:

The conferees direct the Department to make available \$5,000,000 to the University of Pittsburgh Trust - an existing non-profit corporation - to establish a separate not-for-profit subsidiary to develop this Center to be located in Johnstown, Pennsylvania.

The J&A cited U.S.C., title 10, section 2304(c)(5) as implemented by the Federal Acquisition Regulation (FAR) 6.302-5, "Authorized or Required by Statute," as the basis for a noncompetitive contracting action. However, Public Law 101-302<sup>2/</sup>, (the 1990 Supplemental Appropriations) section 213, May 25, 1990, stated,

1/Appropriations Committee Conference Report 101-493, "Making Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensations Administration, and Other Urgent Needs and Transfers, and Reducing Funds Budgeted for Military Spending for the Fiscal Year Ending September 30, 1990, and for Other Purposes," May 22, 1990.

2/"Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensations Administration, and Other Urgent Needs and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990."

"Of the funds available to the Department of Defense, \$5,000,000 shall be made available only for the establishment of a National Defense Center for Environmental Excellence."

The U.S. Army Armament Research, Development, and Engineering Center (ARDEC) General Counsel staff responsible for reviewing noncompetitive awards supported the "Authorized or Required by Statute," justification on the basis of legislative intent. The General Counsel staff agreed that conferee reports are not law; but they believed that a noncompetitive award to a subsidiary of the University of Pittsburgh Trust, Johnstown, Pennsylvania, was a reasonable interpretation of intent.

Responsibility for creating the Center. Initially, the Deputy Assistant Secretary of Defense (Environment) (DASD (E)) assumed responsibility for managing the Center. Then in a March 7, 1991, memorandum, the Deputy Assistant Secretary asked the Army to assume responsibility for the Center as executive agent. The memorandum also outlined the Center's mission and referred to the Appropriations Committee's Conference Report as authority for establishing the Center.

In a memorandum of April 11, 1991, the Acting Secretary of the Army delegated executive agency responsibilities to the U.S. Army Materiel Command (AMC) and stated that projects for the Center should relate to industrial pollution, prevention, and hazardous waste minimization and should be coordinated with the National Defense Environmental Corporation of the University of Pittsburgh Trust.

After receiving executive agency responsibilities, the Commander, AMC directed the U.S. Army Armament, Munitions, and Chemical Command (AMCCOM), Rock Island, Illinois, and ARDEC, Picatinny Arsenal, New Jersey, to take all necessary actions to award a contract for the Center, but did not elaborate on the purpose of the Center or the contracting method.

In a memorandum of June 4, 1991, the Principal Assistant Deputy for Research, Development, and Acquisition, AMC, requested AMCCOM to negotiate a noncompetitive contract for the Center by July 1, 1991. He stated the National Defense Environmental Corporation would support operation of the Center to retain resources committed by federal, state, and industrial concerns, and provide new environmental technology for major weapon system acquisitions.

Proposals for contracting actions. Several J&A documents were proposed for the contract before the Acting Secretary of the Army delegated responsibility to AMC. A March 11, 1991, memorandum from AMC Industrial Engineering Activity stated that the Process Development and Integration Division was preparing a

J&A document for a \$10 million Center with the public law language justifying a sole-source (noncompetitive) procurement.

In March 1991, the Army Office of the Principal Assistant Deputy for Research, Development, and Acquisition, drafted a memorandum that described the contracting actions to the University of Pittsburgh Trust, Johnstown, Pennsylvania, as "other than full and open competition," with a \$10 million obligation at award and a \$50 million ceiling. On April 3, 1991, the AMC Center Program Manager and Office of Counsel signed a J&A document for other than full and open competition for a contract with a \$250 million estimated amount; however, not all reviewing officials concurred with the J&A. On April 24, 1991, the reviewing competition advocate wrote a memorandum stating the opinion that the information furnished to date supported approval of the J&A at the \$5 million level.

A J&A document for a sole-source acquisition of the Center, based on statutory requirement, received full concurrence in May 1991. The estimated dollar amount that appeared in that document was \$10 million.

In addition to the J&A for sole source, the contract for the Center was processed with an approval to use an Undefined Contractual Action (UCA). According to the approval document, the UCA was necessary to comply with Public Law 101-302, section 213, the 1990 Supplemental Appropriations for the following reason.

To follow the normal procedures would jeopardize DoD's ability to provide the urgently needed services on the Armor System Modernization Program and the RAH-66 Comanche Helicopter Programs; as well as the ability to keep the GOGC and GOCO facilities operating in compliance with environmental regulations.

Proposed follow-on contract. A draft J&A document, dated May 26, 1992, for a follow-on contract for the Center, showed the National Defense Environmental Corporation implemented a fully functioning "not-for-profit" Center Program Office, and equipped a 65,000 square foot demonstration factory. By the end of the DAAA21-91-D-0011 contract performance period, December 31, 1992, the National Defense Environmental Corporation would also provide technical, managerial, and budgetary plans for the next 5 years of Center operations. The proposed follow-on contract would support continued operation of the Center Program Office and the demonstration factory. The follow-on contract would also provide investigative, analytical, and demonstrative services for eight identified technical areas, and for additional technical areas, as resources permit.

AMC proposed a 5-year, \$250 million ceiling follow-on contract to operate the Center. The proposal was based on an estimated \$15 million per year to operate the demonstration factory, \$68 million over a 3-year period to complete the eight identified technical tasks, and the balance to complete currently unidentified technical tasks.

Two J&A documents were drafted for the follow-on contract for the Center. The draft J&A that ARDEC staff prepared, cited U.S.C., title 10, section 2304(c)(3) as implemented by the FAR 6.302-3, "Industrial Mobilization; or Engineering, Developmental or Research Capability," as the authority for noncompetitive award.

The Army Materiel Command Research, Development and Engineering staff prepared a draft J&A, which cited U.S.C., title 10, section 2304(c)(1) as implemented by the FAR 6.302-1(a)(2)(iii), "Only One Responsible Source and No Other Supplier of Services Will Satisfy Agency Requirements," as the authority for noncompetitive award. At the time of our draft report on September 30, 1992, neither was the J&A approved nor the follow-on contract awarded.

Guidance for encouraging competitive acquisition. According to AMCCOM Pamphlet 11-1, "Office of the Competition Advocate," January 1, 1992, competition creates an atmosphere of efficiency, creativity, and economy while maximizing the challenge for competitors. The competitive process provides all qualified potential contractors with the right and opportunity to do business with the Government and to compete with others on an equal basis. Congress has consistently acted to maximize competition in Government purchasing.

The Armed Services Procurement Act of 1947, required that the Government, when purchasing goods and services, formally advertise for bids whenever feasible and practicable. In the Office of Federal Procurement Act, Public Law 96-83, 1979, Congress stated its policy of promoting economy, efficiency, and effectiveness in procurement of property and services.

The CICA further defined the congressional defense procurement policy for timely, efficient, economic acquisition of property and services. The CICA mandated full and open competition whenever possible. The U.S.C., title 10, section 2301, related national defense preparedness, fiscal resource conservation, and defense production capability to property and services acquired timely, economically, efficiently, and competitively. It also allowed the head of an agency to use procedures other than full and open competition under special circumstances. These special circumstances included federal statutes that expressly authorized or required procuring from another agency or a specified source. The following examples of statutes that expressly authorize or require procuring from a specific source are given in FAR 6.302-5(b): U.S.C., title 18, section 4124, "Federal Prison

Industries"; U.S.C., title 41, sections 46-48, "Qualified Nonprofit Agencies for the Blind or other Severely Handicapped"; and U.S.C., title 44, "Government Printing and Binding."

Competition in contracting is also regulated by Public Law 100-456, section 2361, "National Defense Authorization Act, Fiscal Year 1989," September 29, 1988, which specifically addresses competition for contracts awarded to colleges and universities. The law states that,

The Secretary of Defense may not make a grant or award a contract to a college or university for the performance or research and development or for the construction of any research or other facility unless the grant or contract is made or awarded using competitive procedures."

### Conclusion

In May 25, 1989, a year before Congress passed Public Law 101-302 (the 1990 Supplemental Appropriations) that funded the Center, AMCCOM published a Market Investigation in the Commerce Business Daily seeking potential sources for "Environmentally Acceptable Material Treatment Processes." Twenty-seven contractors with varying areas of expertise expressed an interest in the requirement. This response suggests that competition for the contract existed at the time when the initial contract was awarded for the Center. The J&A document dated May 2, 1991, included the following statement, which acknowledged the possibility for competition. "If this action were to be issued on a competitive basis, there may be a number of other firms and universities which would respond to the solicitation."

### RECOMMENDATION, MANAGEMENT COMMENTS, AND AUDIT RESPONSE

We recommend that the Commander, Army Materiel Command use full and open competition procedures for follow-on contracts for the National Defense Center for Environmental Excellence unless specific legal authority to deviate from the Competition in Contracting Act of 1984 and other competition requirements is obtained from Congress.

Army comments. The Deputy Assistant Secretary of the Army (Procurement) concurred with the recommendation. He stated that Congress authorized the contract for the National Defense Center for Environmental Excellence with the National Defense Environmental Corporation, a subsidiary of the University of Pittsburgh Trust, Johnstown, Pennsylvania, in Public Law 102-368, "Supplemental Appropriations Act for 1992," and in Public Law 102-396, "Department of Defense Appropriation Act, FY 1993," October 6, 1992. He also agreed to inform Army contracting activities and supporting legal offices that congressional

conference report language cannot be cited as law. The complete text of management comments is in Part III.



**PART II - ADDITIONAL INFORMATION**

**APPENDIX A - Chronology of Events for the National Defense Center  
for Environmental Excellence**

**APPENDIX B - Summary of Potential Benefits Resulting from Audit**

**APPENDIX C - Activities Visited or Contacted**

**APPENDIX D - Report Distribution**

**APPENDIX A - CHRONOLOGY OF EVENTS FOR THE NATIONAL DEFENSE CENTER FOR ENVIRONMENTAL EXCELLENCE**

**May 25, 1989** - A Market Investigation was placed in the Commerce Business Daily seeking environmentally acceptable material treatment processes. Responses received from 27 firms indicated significant interest in this area.

**May 22, 1990** - Appropriations Committee Conference Report 101-493 directed DoD to make available \$5 million to the University of Pittsburgh Trust to establish a separate not-for-profit subsidiary. The subsidiary's purpose was to develop a National Defense Center for Environmental Excellence to be located in Johnstown, Pennsylvania.

**May 25, 1990** - Public Law 101-302, section 213, the 1990 Supplemental Appropriations was passed requiring DoD to make \$5 million available to establish a National Defense Center for Environmental Excellence.

**March 7, 1991** - In a memorandum, the Deputy Assistant Secretary of Defense (Environment) asked the Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) to act as executive agent. The memorandum stated that the Appropriations Committee Conference Report 101-493 expressed a desire to have the Center operated through the National Defense Environmental Corporation of the University of Pittsburgh Trust.

**March 11, 1991** - The Justification and Approval for Other Than Full and Open Competition was proposed for a sole source, \$10 million ceiling contract to establish the Center. However, it was not approved by Army Armament, Munitions and Chemical Command.

**March 1991** (exact date unknown) - Memorandum drafted by the Army Principal Assistant Deputy for Research, Development, and Acquisition, proposed a sole-source acquisition of the Center from the University of Pittsburgh Trust, Johnstown, Pennsylvania, with a \$10 million award and a \$50 million ceiling.

**April 3, 1991** - The U.S. Army Materiel Command Center Program Manager and the Army Armament Research, Development, and Engineering Center Office of Counsel signed a justification and approval document for a sole-source acquisition with a \$250 million ceiling. The justification and approval did not receive any additional concurrences.

**April 11, 1991** - The Acting Secretary of the Army delegated the Center's executive agency to the Commander, AMC. The memo tasked AMC to coordinate the scope of work for each task order with the Center operated by the National Defense Environmental Corporation, University of Pittsburgh Trust.

**APPENDIX A - CHRONOLOGY OF EVENTS FOR THE NATIONAL DEFENSE CENTER  
FOR ENVIRONMENTAL EXCELLENCE (continued)**

**April 22, 1991** - The Commander, AMC, requested in a memorandum that the Commander, AMCCOM, Rock Island, and the Commander, ARDEC, Picatinny Arsenal, take all necessary action to award the contract for the Center before July 1, 1991. The memorandum pointed out that establishing the Center was congressionally mandated.

**May 31, 1991** - The justification and approval document was signed for a contract ceiling of \$10 million and a sole-source award to the University of Pittsburgh Trust.

**June 4, 1991** - The Principal Assistant Deputy for Research, Development and Acquisition, AMC, requested that AMCCOM negotiate a sole-source contract by July 1, 1991.

**June 28, 1991** - Use of an Undefined Contractual Action for the Center was approved by Commander, AMCCOM.

**July 2, 1991** - The U.S. Army Armament Research, Development, and Engineering Center, awarded a letter contract to the National Defense Environmental Corporation, University of Pittsburgh Trust to develop the Center.

**March 23, 1992** - The contract for the Center was definitized with modification 000102.

APPENDIX B: SUMMARY OF POTENTIAL BENEFITS RESULTING FROM AUDIT

<u>Recommendation Reference</u>	<u>Description of Benefit</u>	<u>Type of Benefit</u>
page 7	Compliance with law. Contracting practices will follow legal requirements.	Nonmonetary

#### APPENDIX C: ACTIVITIES VISITED OR CONTACTED

##### Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Washington, DC  
Director, Defense Research and Engineering, Washington, DC  
Deputy Director, Defense Research and Engineering (Plans and Resources), Washington, DC  
Deputy Assistant Secretary of Defense (Environment), Washington, DC

##### Department of the Army

Office of Assistant Secretary of the Army (Research, Development and Acquisition), Washington, DC  
Deputy Chief of Staff for Research, Development, and Engineering, Headquarters, Army Materiel Command, Alexandria, VA  
Procurement Directorate, Army Armament, Munitions, and Chemical Command, Rock Island, IL  
Procurement Directorate, Army Armament Research, Development, and Engineering Center, Picatinny Arsenal, NJ

##### Other Agencies

Office of Research and Development, Environmental Protection Agency, Washington, DC

#### APPENDIX D: REPORT DISTRIBUTION

##### Office of the Secretary of Defense

Under Secretary of Defense for Acquisition  
Director, Defense Research and Engineering  
Director of Defense Procurement  
Deputy Director Defense Research and Engineering (Plans  
and Resources)  
Deputy Assistant Secretary of Defense (Environment)

##### Department of the Army

Secretary of the Army  
Assistant Secretary of the Army (Installations, Logistics  
and Environment)  
Assistant Secretary of the Army (Research, Development, and  
Acquisition)  
Commander, Army Materiel Command  
Commander, Army Armament, Munitions, and Chemical Command  
Commander, Army Armament Research, Development, and Engineering  
Center  
Auditor General, Army Audit Agency  
Inspector General, Department of the Army (Operations Division)

##### Defense Agencies

Director, Defense Contract Audit Agency

##### Non-DoD Activities

Office of Management and Budget  
General Accounting Office, National Security and International  
Affairs Division, Technical Information Center

Chairman and Ranking Minority Member of the following  
Congressional Committees and Subcommittees:

Senate Subcommittee on Defense, Committee on Appropriations  
Senate Committee on Armed Services  
Senate Committee on Governmental Affairs  
House Committee on Appropriations  
House Subcommittee on Defense, Committee on Appropriations  
House Committee on Armed Services  
House Committee on Government Operations  
House Subcommittee on Legislation and National Security,  
Committee on Government Operations

PART III - MANAGEMENT COMMENTS

Department of the Army

DEPARTMENT OF THE ARMY COMMENTS



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON, DC 20315-0400



CARD-PC

20 OCT 1992

MEMORANDUM FOR THE INSPECTOR GENERAL, DEPARTMENT OF  
DEFENSE

SUBJECT: Draft Quick-Reaction Report on the Audit of  
the DoD Hotline Allegation on the Award of Contract  
DAAA21-D-0011 and Planned Subsequent Award (Project  
No. 2CG-6011)

We concur with the report's recommendation.

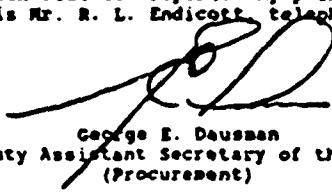
In that regard, specific statutory direction to provide \$5 million to the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence was set forth in Section 204, Supplemental Appropriations Act for 1992 (P. L. 102-368). A verbatim copy of this section is attached. We believe that this statutory direction has the practical effect of ratifying the award of Contract DAAA21-D-0011.

Subsequently, additional statutory direction provided an additional \$20 million for the continuation of this project (Section 9145, Department of Defense Appropriations Act, 1993 (P. L. 102-366)). A verbatim copy of this section is also provided.

This legislation, (taken in conjunction with the conference report which supports it), clearly conveys the intent of the Congress to continue this project on its current basis for an additional five years, subject to the subsequent availability of funds.

Army contracting activities and the legal offices that support them will be reminded that congressional conference report language cannot be cited as law.

We very much appreciate the opportunity to provide comments on the draft quick-reaction report. My point of contact for this matter is Mr. R. L. Endicott, telephone 695-0255.

  
George E. Dausman  
Deputy Assistant Secretary of the Army  
(Procurement)

Attachment



DEPARTMENT OF THE ARMY COMMENTS (continued)

Section 304, Supplemental Appropriations Act, 1992 (Public Law 102-368):

Sec. 304. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in title IV of the Department of Defense Appropriations Act, 1992 (Public Law 102-173), not less than \$9,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence.

Section 9145, Department of Defense Appropriations Act, 1993, (Public Law 102-396):

Sec. 9145. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in this Act, not less than \$20,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence (NDCEE): Provided, That nothing in the contract for this effort shall prohibit use of the NDCEE by industry, associations, other Department of Defense services and agencies, and other government agencies for efforts to be separately negotiated and funded.

List of Audit Team Members

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